

REMARKS

The Office Action of December 23, 2009, has been carefully reviewed and these remarks are responsive thereto. No new matter has been added. Claims 1, 3-14, 17-23 and 25-29 remain pending upon entry of the present paper. Reconsideration and allowance of the instant application are respectfully requested.

Interview

The undersigned would like to thank Examiner Kim for the courtesies extended during a telephone interview conducted on March 23, 2010. Pursuant to MPEP § 713.04, the below includes Applicants' substance of interview.

Rejections under 35 U.S.C. § 103

Claims 1, 8-9, 14-15, 23-24 and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. publication no. 2002/0085540 A1 to Hyvarinen et al. ("Hyvarinen") in view of International publication no. WO 00/70831 to Almgren et al. ("Almgren"). This rejection is traversed below.

Independent claim 1 recites, among other features, "wherein the first telecommunication system is not configured to satisfy the initial Quality of Service (QoS) levels of the first set of telecommunication services."

The Office Action at pages 4-5 correctly indicates that Hyvarinen fails to describe the above-noted features recited in claim 1. The Office Action at pages 5-6 contends that Almgren describes such features. More specifically, the Office Action at page 5 asserts that Almgren at page 6, line 31 – page 7, line 6 describes wherein the first telecommunication system is not configured to satisfy the initial Quality of Service (QoS) levels of the first set of telecommunication services, analogizing (or equating) the recited first set of telecommunication services to (with) video. However, neither Almgren at page 6, line 31 – page 7, line 6, nor any other passage of Almgren describes wherein the first telecommunication system is not configured to satisfy the initial Quality of Service (QoS) levels of the first set of telecommunication services. As discussed during the interview, Almgren at page 6, line 31 –

page 7, line 6 merely describes that with data services being added to cellular networks, wireless systems engineering is faced with the task of having to accommodate connections belonging to different services each of which may have a different quality requirement, and that in a complex mixture of different applications using wireless access in second generation systems, lack of structured handling will result in a low system performance and create added difficulty to operators managing networks. Low system performance and added difficulty fails to teach or suggest a first telecommunication system is not configured to satisfy the initial Quality of Service (QoS) levels of video (e.g., the alleged first set of telecommunication services, notwithstanding whether the analogy between, or the equating of, the recited first set of telecommunication services and video is proper). During the interview, the Examiner agreed that the rejection of record is improper in this respect. Accordingly, claim 1 is distinguishable from Hyvarinen and Almgren (notwithstanding whether the proposed combination of applied art would have been proper).

Claims 14 and 29 each recite features similar to those discussed above with respect to claim 1 and are allowable for at least similar reasons.

Claims 8-9, 15 and 23-24 depend on claims 1 and 14 and are at least allowable for the same reasons as their base claims, and in further view of the advantageous features recited therein.

Claims 3-6 and 17-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hyvarinen and Almgren and further in view of U.S. patent no. 6,044,091 to "Kim". Applicants traverse.

Claims 3-6 and 17-20 depend on claims 1 and 14, respectively. Kim fails to cure the deficiencies of Hyvarinen and Almgren with respect to claims 1 and 14. Therefore, even assuming but not conceding that a combination of Hyvarinen, Almgren and Kim would have been appropriate, such a combination would have failed to result in each and every feature of claims 3-6 and 17-20 for at least the above reasons, and in further view of the advantageous features recited therein.

Claims 7 and 21-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hyvarinen, Almgren, and Kim and further in view of U.S. publication no. 2002/0160757 A1 to Shavit et al. ("Shavit"). Applicants traverse.

Claims 7 and 21-22 depend on claims 1 and 14, respectively. Shavit fails to cure the deficiencies of Hyvarinen, Almgren, and Kim with respect to claims 1 and 14. Therefore, even assuming but not conceding that a combination of Hyvarinen, Almgren, Kim and Shavit would have been appropriate, such a combination would have failed to result in each and every feature of claims 7 and 21-22 for at least the above reasons, and in further view of the advantageous features recited therein.

Claims 10-13 and 25-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Hyvarinen and Almgren and further in view of U.S. patent no. 7,283,550 B2 to Duncan et al. ("Duncan"). Applicants traverse.

Claims 10-13 and 25-28 depend on claims 1 and 14, respectively. Duncan fails to cure the deficiencies of Hyvarinen and Almgren with respect to claims 1 and 14. Therefore, even assuming but not conceding that a combination of Hyvarinen, Almgren, and Duncan would have been appropriate, such a combination would have failed to result in each and every feature of claims 10-13 and 25-28 for at least the above reasons, and in further view of the advantageous features recited therein.

CONCLUSION

If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit Deposit Account No. 19-0733, accordingly.

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same.

Respectfully submitted,
BANNER & WITCOFF, LTD.

Dated: April 6, 2010

By: /Mark E. Wilinski/
Mark E. Wilinski
Registration No. 63,230

1100 13th Street, N.W., Suite 1200
Washington, D.C. 20005-4051
Tel: (202) 824-3000
Fax: (202) 824-3001